

Remarks

This Amendment is in response to the Office Action dated **February 15, 2007**.

The Office Action: **1)** rejected claims 1-6 under 35 USC §112 ¶ 2 for being indefinite, **2)** rejected claims 1-3 and 6 under 35 USC §102(b) as being anticipated by US 4,491,918 (hereinafter Yuki), **3)** rejected claim 4 under 35 USC §103(a) as being unpatentable over Yuki in view of US 5,947,516 (hereinafter Avitan), **4)** rejected claim 5 under 35 USC §103(a) as being unpatentable over Yuki in view of US 4,942,529 (hereinafter Ishikawa), and **5)** did not indicate if DE 32 11 509 A1 was considered. The following comments are presented in the same order as in the Office Action with section numbers corresponding to the above enumeration.

1. 35 USC § 112 ¶ 2 rejection of claims 1-6

The Office Action rejected claims 1-6 under 35 USC §112 ¶ 2 for being indefinite. Specifically the Office Action stated that coordinating one or more drives was indefinite because it is not possible to coordinate only one drive. The instant claims make clear that the coordination occurs between two drives. This amendment does not require a new search as it merely narrows the scope of the claims, does not introduce any unexamined matter, and does not raise any new issues of patentability.

2. 35 USC § 102(b) rejection of claims 1-3 and 6 under Yuki

The Office Action rejected claims 1-3 and 6 under 35 USC §102(b) as being anticipated by Yuki. The Office action stated that these claims **(a)** did not recite measuring the tilt of the fork relative to a horizontal axis, and **(b)** even if they did this is disclosed by Ishikawa.

The following explains why this is incorrect.

2(a). *The claims recite measuring the tilt of the forks relative to a horizontal axis*

The previous set of claims indicated that the drive inclines the position of the fork relative to the horizontal axis and that the actuation of this drive is regulated by an analog sensor which detects the inclined position of the fork. Instant claims more explicitly state that the analog sensor which detects the inclined position of the load-carrying fork makes the detection relative to the horizontal axis. Yuki does not disclose this limitation. This amendment does not require a new search as it merely narrows the scope of the claims, does not introduce any unexamined matter, and does not raise any new issues of patentability.

2(b). *Measuring the tilt of the forks relative to a horizontal axis is not disclosed by Ishikawa*

Ishikawa does not disclose measuring the tilt of a fork relative to a horizontal axis. Instead, Ishikawa discloses using a tilt sensor to directly measure the angle of the *mast* of a fork lift relative to a horizontal axis but not the angle of the *fork* relative to a horizontal axis. (Ishikawa, Col. 11 line 66- Col. 12 line 3). Ishikawa does not disclose a more precise measurement of the fork angle because Ishikawa is designed to regulate the center of gravity of the fork lift (Ishikawa, Col. 2 lines 23-24) and not to properly aim the forks. The center of gravity of a fork lift is dependent on the lateral tilt imposed on it by the combined yawing force of the fork, the load, and the mast together and is not aided by any objective measurement of the fork angle relative to a horizontal axis. (Ishikawa, Col. 5 lines 22-51). Applicant's device in contrast directly measures angle of the fork because that is essential to properly aiming the forks.

Directly measuring the angle of the forks relative to a horizontal axis as done in

the claims is more accurate than Ishikawa's indirect inference of a fork's tilt from the mast angle. This is because measuring the mast angle will not provide accurate readings if the lift frame becomes deformed and changes the angle between the mast and the fork. (Specification, Page 2 lines 12-17). Because Ishikawa does not make the same measurement as the claims and because the difference in the measurements is significant, it is not correct to say that Ishikawa discloses the measuring device in applicant's claims.

3. 35 USC § 103(a) rejection of claim 4 under Yuki in view of Avitan

The Office Action rejected claim 4 under 35 USC §103(a) as being anticipated by Yuki in view of Avitan. As mentioned in section 2 of these remarks, Yuki does not disclose an analog sensor which compares the inclined position of the forks to a horizontal axis. Avitan also does not make such a disclosure. Because neither of the cited references whether viewed individually or in combination disclose all of the claimed limitations, the 35 USC §103(a) rejection was in error.

4. 35 USC § 103(a) rejection of claim 5 over Yuki in view of Ishikawa

The Office Action rejected claim 5 under 35 USC §103(a) as being anticipated by Yuki in view of Ishikawa. As mentioned in section 2 of these remarks, neither Yuki nor Ishikawa disclose an analog sensor which compares the inclined position of the load-carrying fork to a horizontal axis. Because neither of the cited references whether viewed individually or in combination disclose all of the claimed limitations, the 35 USC §103(a) rejection was in error.

5. German Reference

Applicant previously stated that reference DE 3211509 is discussed in the specification (at page 2), and provides the required statement of relevancy. Therefore, this reference should be considered. Notice to this effect would be appreciated.

Conclusion

Based on at least the foregoing remarks, Applicant respectfully submits this application is in condition for allowance. For at least these reasons, withdrawal of the rejections against Claims 1-6 is requested. Favorable consideration and prompt allowance of claims 1-7 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS



Date: July 16, 2007

By: /Benjamin Carlsen/
Benjamin E. Carlsen
Registration No.: 52,697

6640 Shady Oak Road, Suite 400
Eden Prairie, MN 55344
Telephone: (952) 563-3000
Facsimile: (952) 563-3001